

## **EXHIBIT 1**

### **INTRODUCTION**

Respondent California State Employees Association Membership Action Committee, sponsored by California State Employees Association (“Committee”), is a state general purpose committee. Respondent Barbara Glass (“Glass”) was Respondent Committee’s treasurer from October 22, 1996, until August 22, 2002, and Respondent Christy Christensen (“Christensen”) was Respondent Committee’s treasurer from August 22, 2002 through January 20, 2004.

Under the authority of the Political Reform Act (the “Act”),<sup>1</sup> the Franchise Tax Board (“FTB”) audited Respondent Committee’s activities during the period January 1, 2001 through December 31, 2002. During the audit period, Respondent Committee received contributions totaling \$2,382,631 and made expenditures totaling \$2,545,033. The FTB found that Respondents failed to properly report a \$75,000 contribution made to an elected officer, failed to disclose the receipt of contributions totaling approximately \$197,392 in the period in which they were received, failed to disclose making four late contributions totaling \$274,000 in properly filed late contribution reports, and failed to properly report accrued expenses totaling \$95,200.

For the purposes of this stipulation, Respondents’ violations of the Act are stated as follows:

COUNT 1: Respondents California State Employees Association Membership Action Committee and Barbara Glass failed to properly disclose a \$75,000 contribution made on or about September 10, 2001, in the campaign statement for the reporting period from July 1, 2001 through September 30, 2001, filed on October 10, 2001, in violation of section 84211, subdivision (k)(5).

COUNT 2: Respondents California State Employees Association Membership Action Committee and Barbara Glass failed to timely disclose contributions received, totaling \$197,392, in the campaign statement for the reporting period from July 1, 2001 through September 30, 2001, filed on October 10, 2001, in violation of section 84211, subdivisions (a), (c), and (f).

COUNT 3: Respondents California State Employees Association Membership Action Committee and Christy Christensen failed to disclose a \$250,000 late contribution made to the Governor Gray Davis Committee on October 28,

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<sup>1</sup> The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of title 2 of the California Code of Regulations. All regulatory references are to title 2, division 6 of the California Code of Regulations, unless otherwise indicated.

2002, in a properly filed late contribution report, in violation of section 84203.

COUNT 4: Respondents California State Employees Association Membership Action Committee and Christy Christensen failed to disclose a \$9,000 late contribution made to The Lockyer Committee on October 28, 2002, in a properly filed late contribution report, in violation of section 84203.

COUNT 5: Respondents California State Employees Association Membership Action Committee and Christy Christensen failed to disclose a \$5,000 late contribution made to the John Garamendi Committee on October 28, 2002, in a properly filed late contribution report, in violation of section 84203.

COUNT 6: Respondents California State Employees Association Membership Action Committee and Christy Christensen failed to disclose a \$10,000 late contribution made to The Lockyer Committee on November 4, 2002, in a properly filed late contribution report, in violation of section 84203.

COUNT 7: Respondents California State Employees Association Membership Action Committee and Christy Christensen failed to timely disclose accrued expenses of \$95,200 in a semi-annual campaign statement for the reporting period from October 20, 2002 through December 31, 2002, filed on January 31, 2003, in violation of section 84211, subdivisions (i) and (k).

### **SUMMARY OF THE LAW**

An express purpose of the Act, as set forth in section 81002, subdivision (a), is to ensure that contributions and expenditures in election campaigns are fully and truthfully disclosed, so that voters may be fully informed, and improper practices may be inhibited. The Act therefore establishes a campaign reporting system designed to accomplish this purpose of disclosure.

#### **Duty to File Campaign Statements**

Section 82013, subdivision (a) defines a “committee” as any person or combination of persons who directly or indirectly receives contributions totaling \$1,000 or more in a calendar year. This type of committee is commonly referred to as a “recipient” committee. A recipient committee that is formed or exists primarily to support or oppose candidates or measures voted on in a state election or in more than one county is defined, at section 82027.5, subdivision (b), as a “state general purpose committee.”

A recipient committee has the obligation to file periodic campaign statements disclosing contributions received and expenditures made by the committee during the reporting period covered by the campaign statement. Section 84200, subdivision (a) requires recipient committees to file two semi-annual campaign statements each year. The first semi-annual campaign statement covers the reporting period January 1 to June 30, and must be filed by July 31 of the same year. The second semi-annual campaign statement covers the reporting period July 1 to December 31, and must be filed by January 31 of the following year.

Sections 84200.5 and 84200.7, subdivision (b) provide for the filing of two pre-election statements covering two reporting periods prior to elections held in November of an even numbered year. The reporting period for the first pre-election campaign statement ends September 30. This first pre-election campaign statement must be filed no later than October 5. The reporting period for the second pre-election campaign statement runs from October 1 through 17 days before the election. This second pre-election campaign statement must be filed no later than 12 days before the election.

### **Duty to Disclose Contributions Received**

Section 84211, subdivision (a) requires a committee to disclose in each of its campaign statements the total amount of contributions received during the period covered by the campaign statement, and the total cumulative amount of contributions received.

Under section 84211, subdivision (c), a committee must disclose the total amount of contributions received during the period covered by the campaign statement from persons who have given a cumulative amount of one hundred dollars (\$100) or more. Section 84211, subdivision (f) requires a committee to report in each of its campaign statements the following information about a person if the cumulative amount of contributions received from that person is one hundred dollars (\$100) or more and a contribution has been received from that person during the reporting period covered by the campaign statement: (1) the contributor's full name; (2) the contributor's street address; (3) the contributor's occupation; (4) the name of the contributor's employer, or if self-employed, the name of the contributor's business; (5) the date and amount of each contribution received from the contributor during the reporting period; and (6) the cumulative amount of contributions received from the contributor.

Section 84302 requires a committee that receives a contribution from a person acting as an intermediary of another to disclose the intermediary's full name and street address, occupation, and name of the employer, if any, or principal place of business if self employed.

### **Duty to Disclose Expenditures Made**

Section 84211, subdivision (b) requires a committee to disclose in each of its campaign statements the total amount of expenditures made during the period covered by the campaign statement and the total cumulative amount of expenditures made.

Pursuant to section 82025, an expenditure is "made" on the date the payment is made or on the date consideration, if any, is received, whichever is earlier. If consideration is received

prior to payment being made, then the expenditure must be reported on the campaign statement as an accrued expense as of the date on which the goods or services are received. (Regulation 18421.6, subdivision (b).)

Section 84211, subdivisions (i) and (k) requires that certain information be provided for each person to whom an expenditure of one hundred dollars (\$100) or more has been made during the period covered by the campaign statement, including the following: (1) the payee's full name; (2) the payee's street address; (3) the amount of each expenditure; and (4) a brief description of the consideration for which each expenditure was made. For purposes of section 84211, subdivisions (i) and (k), the term "expenditure" means any individual payment or accrued expense, unless it is clear from the surrounding circumstances that a series of payments or accrued expenses are for a single service or product. (Section 84211, subd. (k)(6).)

In the case of an expenditure of one hundred dollars (\$100) or more which is a contribution to a candidate, elected officer, or committee, in addition to the information required in paragraphs (1) to (4) above, the following information is required to be disclosed: the date of the contribution; the cumulative amount of contributions made to a candidate, elected officer, or committee; the full name of the candidate, and the office and district for which he or she seeks nomination or election; and the jurisdiction in which the candidate is voted upon. (Section 84211, subd. (k)(5).)

### **Duty to File Late Contribution Reports**

Under section 84203, when a committee makes or receives a late contribution, the committee must disclose the contribution in a late contribution report filed at each office with which the committee is required to file its next campaign statement pursuant to section 84215, within 24 hours of making or receiving the contribution. Section 82036 defines a "late contribution" as a contribution which totals in the aggregate one thousand dollars (\$1,000) or more that is made or received before an election, but after the closing date of the last campaign statement that is required to be filed before the election. Under section 84200.7, for an election held in June or November of an even-numbered year, the late contribution period covers the last 16 days before the election.

### **Treasurer Liability**

Under section 81004, subdivision (b), section 84100, and regulation 18427, subdivision (a), it is the duty of a committee's treasurer to ensure that the committee complies with all of the requirements of the Act concerning the receipt and expenditure of funds, and the reporting of such funds. Sections 83116.5 and 91006 provide that a committee's treasurer may be held jointly and severally liable, along with the committee, for any reporting violations committed by the committee.

## **SUMMARY OF THE FACTS**

### **COUNT 1**

#### **Failure to Properly Disclose a Contribution of \$100 or More Made to an Elected Officer**

Respondents Committee and Glass had a duty to disclose certain information for each expenditure of \$100 or more, made in the form of a contribution to a candidate or elected officer, including his or her full name and street address, the office sought or held, and district, if any. (Section 84211, subd. (k)(5).)

On September 10, 2001, Respondent Committee made a \$75,000 contribution to “John Burton,” who was a State Senator at the time. Senator Burton’s controlled committee, Burton for State Senate 2000, deposited the \$75,000 contribution check on September 21, 2001, and reported having received it on September 19, 2001, in the pre-election campaign statement for the reporting period from July 1, 2001 through September 30, 2001.

Respondent Committee’s pre-election campaign statement for the reporting period from July 1, 2001 through September 30, 2001, was filed with the Secretary of State on October 10, 2001. This pre-election campaign statement reflects that Respondent Committee made a \$75,000 contribution on September 10, 2001, to the California Voter Registration Project (“CVRP”), which was a state general purpose recipient committee. The pre-election campaign statement does not disclose that Respondent Committee made a \$75,000 contribution to John Burton.

By failing to properly disclose a \$75,000 contribution to an elected officer, Respondents Committee and Glass violated section 84211, subdivision (k)(5).

### **COUNT 2**

#### **Failure to Timely Disclose Contributions Received**

Respondents Committee and Glass had a duty to disclose the total amount of contributions received during the period covered by the campaign statement and the total cumulative amount of contributions received. (Section 84211, subd. (a).)

Respondent Committee received contributions totaling approximately \$281,685 from its sponsor CSEA, which was acting as an intermediary for its members, during the pre-election reporting period from July 1, 2001 through September 30, 2001. Of that \$281,685, Respondents Committee and Glass failed to disclose \$197,392, or approximately 70 percent, in the pre-election campaign statement for the reporting period from July 1, 2001 through September 30, 2001, filed on October 10, 2001. Because none of the contributions had a cumulative amount of \$100 or more, they were not required to be itemized.

Respondents subsequently disclosed receipt of the \$197,392 in contributions in the campaign statement covering the reporting period from October 1, 2001 through December 31, 2001.

By failing to disclose contributions, totaling \$197,392, in the reporting period in which they were received, Respondents Committee and Glass violated section 84211, subdivisions (a), (c), and (f).

COUNTS 3 - 6

**Failure to Timely File Late Contribution Reports**

Respondents Committee and Christensen had a duty to report making a late contribution within 24 hours of the time it was made. (Section 84203.) The late contribution reporting period for the November 5, 2002 General Election was from October 20, 2002 through November 4, 2002. The following table sets forth the date Respondents Committee and Christensen made each late contribution, the date of the late contribution report ("LCR"), the name of the recipient, and the amount of each contribution.

<b>Count</b>	<b>Contribution Date</b>	<b>Date of LCR</b>	<b>Recipient</b>	<b>Amount of Contribution</b>
<b>3</b>	10/28/02	01/31/03	Governor Gray Davis Committee	\$ 250,000
<b>4</b>	10/28/02	01/31/03	The Lockyer Committee	9,000
<b>5</b>	10/28/02	01/31/03	John Garamendi Committee	5,000
<b>6</b>	11/04/02	01/31/03	The Lockyer Committee	10,000
<b>TOTAL:</b>				<b>\$ 274,000</b>

By failing to disclose late contributions in properly filed late contribution reports, Respondents Committee and Christensen violated section 84203.

COUNT 7

**Failure to Timely Disclose Accrued Expenses**

Respondents Committee and Christensen had a duty to disclose in each campaign statement the total amount of expenditures made during the reporting period covered by the campaign statement and the total cumulative amount of expenditures made. (Section 84211, subd. (b).) Additionally, for each person to whom an expenditure of \$100 or more was made during the reporting period, Respondents were required to disclose information that included the payee's name and address, the amount of each expenditure, and a brief description of the consideration for which each expenditure was made. (Section 84211, subds. (i), (k).)

Respondent Committee accrued four expenses to CSEA totaling approximately \$95,200, during the reporting period from October 20, 2002 through December 31, 2002. Respondents Committee and Christensen failed to disclose those accrued expenses in the semi-annual campaign statement for the reporting period from October 20, 2002 through December 31, 2002, filed on January 31, 2003.

Respondents subsequently paid the accrued expenses and disclosed them as expenditures made in the special odd-year report for the reporting period from January 1, 2003 through March 31, 2003.

By failing to properly disclose accrued expenses in the reporting period during which they were accrued, Respondents Committee and Christensen violated section 84211, subdivisions (i) and (k).

## **CONCLUSION**

This matter consists of seven counts of violating the Act, which carry a maximum possible administrative penalty of Thirty-Five Thousand Dollars (\$35,000).

In determining the appropriate penalty for a particular violation of the Act, the Enforcement Division considers the typical treatment of a violation in the overall statutory scheme of the Act, with an emphasis on serving the purposes and intent of the Act. Additionally, the Enforcement Division considers the facts and circumstances of the violation in context of the factors set forth in regulation 18361.5, subdivision (d)(1)-(6): the seriousness of the violations; the presence or lack of intent to deceive the voting public; whether the violation was deliberate, negligent, or inadvertent; whether the Respondent demonstrated good faith in consulting with Commission staff; whether there was a pattern of violations; and whether the Respondent, upon learning of the violations, voluntarily filed appropriate amendments to provide full disclosure.

Regarding Count 1, the administrative penalty for the failure to disclose required expenditure information has been in the low-to-middle end of the penalty range, depending on the circumstances of the case. In this matter, Respondent Committee is an experienced committee, which made a \$75,000 contribution to Senator John Burton, but reported that it was made to CVRP, a general purpose committee. Because of this, the public was deprived of important information before the election about whom Respondent Committee supported and at what level. Respondents stated that this failure to disclose was due in large part to the misapplication of the \$75,000 contribution by the receiving political office to an unintended recipient. In mitigation, it appears there may have been some confusion in the way the contribution was processed, and no intent to deceive the public. Additionally, Senator Burton properly reported the receipt of the contribution. Because the expenditure in this case was a very large contribution, an administrative penalty higher than in the low-to-middle end of the penalty range is warranted, in the amount of \$3,500 for this violation.

Regarding Count 2, the administrative penalty that has typically been imposed for failure to report contributions has been in the mid-to-high end of the available penalty range. Generally, these have been contributions received of \$100 or more, which are subject to itemization. In this matter, Respondent Committee failed to disclose contributions made by its sponsor, acting as an intermediary for its members, totaling \$197,392. This is a serious violation, as approximately 70 percent of the contributions received during the first pre-election reporting period were not timely reported. An aggravating factor is that Respondents had received a warning letter for a similar finding, which was noted in a previous FTB audit report issued December 29, 2000. In mitigation, the contributions were ultimately reported before the election, and each member contribution was less than \$100 and not subject to itemization, so the public harm was reduced. Therefore, an administrative penalty in the amount of \$3,000 is appropriate for this violation.

Regarding Counts 3 - 6, the typical administrative penalty for failing to report a late contribution has resulted in penalties ranging from the mid to high range of the available

penalties, depending on the facts and circumstances of each case, including the presence of aggravating factors such as the amount of money not reported and whether the violations resulted from negligent or intentional conduct. In this matter, Respondents did not file four late contribution reports, totaling \$274,000, until almost three months after the 2002 General Election. These are serious violations because the public did not have this important information regarding Respondent Committee's activities before the election, and the amount of money not reported was significant. In mitigation, Respondents timely filed late contribution reports for approximately 25 other late contributions made, totaling approximately \$168,000. Therefore, imposition of an administrative penalty in the amount of \$3,500 for Count 3, and \$2,500 for Counts 4 – 6 is warranted.

Regarding Count 7, the typical administrative penalty for failing to properly disclose accrued expenses has varied based on the circumstances of the violation, such as the total dollar amount not reported and whether the information should have been reported on a pre-election or post-election campaign statement. In this matter, Respondents failed to disclose accrued expenses of \$95,200 incurred during a post-election semi-annual reporting period. The total dollar amount not reported is relatively low, compared to the approximately \$659,000 in expenditures made during the same reporting period. Additionally, Respondents reported the expenditures when the accrued expenses were actually paid. An aggravating factor is the fact that Respondents received a warning letter for a similar finding, which was noted in a previous audit report issued December 29, 2000. In light of these facts, imposition of an administrative penalty in the amount of \$2,000 is appropriate.

The facts of this case, including the aggravating and mitigating factors discussed above, therefore justify imposition of the agreed upon penalty of Nineteen Thousand Five Hundred Dollars (\$19,500).